

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**JAMES JIRAK and ROBERT  
PEDERSEN,**

**Plaintiff,**

**v.**

**ABBOTT LABORATORIES, INC.,**

**Defendant.**

**No. 07 C 3626**

**Judge Ruben Castillo**

**Magistrate Judge Michael T. Mason**

**ABBOTT'S PRE-TRIAL MOTION FOR JUDGMENT AS TO WILLFULNESS**

Defendant Abbott Laboratories, Inc. requests that the Court grant its motion and find that Plaintiffs may not recover damages beyond the FLSA's two-year limitations period. Supreme Court precedent makes clear that Abbott cannot be found to have willfully violated the Fair Labor Standards Act unless its position that its salesmen are overtime-exempt is objectively unreasonable, and that it was reckless. Plaintiffs have failed to do so here where the classification decision at issue has withstood challenge in a number of district courts and at least one Court of Appeals. Additionally, Abbott's classification decision cannot be deemed to be objectively unreasonable or reckless when its decision was supported by prior DOL statements on FLSA exemptions.

For all these reasons, addressed more fully in Abbott's accompanying memorandum of law, Abbott requests that the Court grant its Motion for Judgment as to Willfulness.

Dated: July 28, 2010

Respectfully submitted,

/s/ Brent D. Knight

---

Michael J. Gray  
E-mail: mjgray@jonesday.com  
Brent D. Knight  
E-mail: bdknight@jonesday.com  
Efrat R. Schulman  
E-mail: eschulman@jonesday.com  
JONES DAY  
77 West Wacker  
Chicago, IL 60601-1692  
Telephone: (312) 782-3939  
Facsimile: (312) 782-8585

Attorney for Defendant  
ABBOTT LABORATORIES, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on July 28, 2010, I electronically filed the foregoing *Abbott's Pre-Trial Motion for Judgment as to Willfulness* with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/Brent D. Knight